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OFFICE OF THE ATTORNEY GENERAL
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OPINION NO. *88-4749 JV*

May 14, 1987

SUBJECT: Taxation and Revenue - Warranty Of Title At Tax Sale.

SYLLABUS: A purchaser of property at a tax sale acquires the title thereto without warranty and buys at his own risk. The tax entity is not liable for the quantity or quality of the property sold.

TO: Honorable T. Ed Garrison
Senator, The Senate of South Carolina

FROM: Joe L. Allen, Jr. *JAL*
Chief Deputy Attorney General

QUESTION: A person understanding the existence of improvements on real property is the high bidder at a tax sale. The improvements are nonexistent. Does the tax entity owe the purchaser for this mistaken understanding when the tax officials may have contributed to the understanding?

APPLICABLE LAW: Section 12-51-130, South Carolina Code of Laws, 1976.

DISCUSSION:

The above statute provides the contents of a tax deed. It does not provide for a warranty. A tax deed contains no warranty and the purchaser bids at his own risk.

"There is no warranty in tax sales, and the doctrine of caveat emptor applies to such sales in its fullest extent."
Cooke v. Pennington, 15 S.C. 185. See also 85 C.J.S., Taxation, § 905(b).

The Supreme Court of North Carolina in the case of City of Wilmington v. Merrick, 234 N.C. 46, 65 S.E.2d 373, succinctly stated the rule as follows:

"The principle of caveat emptor applies with all its rigor to the purchase of real estate at a tax sale. Ordinarily, the holder of a tax deed executed pursuant to an invalid commissioner's sale in a tax foreclosure suit may not

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obtain reimbursement from the taxing authorities.
The fundamental fairness and soundness of this rule is apparent. One who purchases at a tax sale does so without warranty,--and usually with the expectation of substantial profit. He is chargeable with knowledge that a commissioner's deed is no more than a quitclaim deed. There 'are no implied covenants with respect to title, quantity, or incumbrance, in the sale of real estate'. . . ."

CONCLUSION:

A purchaser of property at a tax sale acquires the title thereto without warranty and buys at his own risk. The tax entity is not liable for the quantity or quality of the property sold.

JLAJr:wcg